

## Disposition of the Independent Review Panel

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Complainant: Sheila Mann

Date: March 6, 2003

IRP Case: A2002.163

From: Eduardo I. Diaz, Ph.D.  
Executive Director

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The Independent Review Panel met on February 27, 2003 for the purpose of publicly reviewing the complaint made by Sheila Mann against the Miami-Dade Police Department (MDPD) and the department's response to that complaint. The following represents the findings of the Panel:

### A. Allegations

Ms. Sheila Mann alleges that:

- 1) Officer Danny Murillo racially profiled her, in that he had insufficient cause to initiate officer/citizen contact.
- 2) Officer Murillo failed to activate his siren or flashing lights, during the entire time, unbeknown to her, that he was tailing her; as well as when he pulled up behind her vehicle, already stopped at her aunt's residence.
- 3) Ms. Mann also alleges that Sergeant Angel Dovale, the Professional Compliance Bureau (PCB) Internal Affairs representative, failed to adequately explain the options available to citizens who file complaints.

### B. Disposition of the Independent Review Panel

Allegation #1 - NOT SUSTAINED.

Ms. Mann said that while passing the patrol vehicles, she did not observe the driver and didn't know whether he observed her. Officer Murillo indicated that he could not tell if the driver was male or female, Black or White. Ms. Mann contends that she made the appropriate stops and signal at each turn. Officer Murillo said he observed Ms. Mann speeding, failing to signal and/or stop. He said he issued her a traffic citation for "Failure to Signal," but did not issue her any additional citations for the other traffic violations he observed. In Patricia Leonard's (complainant's aunt who was a passenger in the vehicle) verbal statement to the Independent Review Panel (IRP), she said that she observed Sheila put on her signal light at each turn.

The Panel found that, although Ms. Leonard's statement corroborates that of her niece, based on the facts provided, there is insufficient evidence to substantiate the allegation of racial profiling.

**Allegation #2 - NOT SUSTAINED**

PCB Internal Affairs addressed the allegation as follows:

"Based on the fact that the complainant voluntarily stopped her vehicle at a residence, use of emergency equipment was optional, and constitutes no procedural violation." Additionally, Officer Murillo's chain of command, in its informal investigation, concluded that according to the MDPD manual, "use of emergency equipment was optional and at the discretion of the officer for a routine traffic stop."

According to Officer Murillo, at the intersection of SW 216 Street and 120 Avenue, he activated his emergency lights (not his air horn or siren). He also said that his emergency lights were still on when he arrived at Ms. Mann's aunt's residence. According to Ms. Leonard, the police vehicle did not have its emergency lights on. The allegation was Not Sustained, based on conflicting testimony.

**Allegation #3 - NOT SUSTAINED.**

In Sergeant Angel Dovale's formal statement to IA, he stated that he informed Ms. Mann that the allegations could be addressed as a formal or informal investigation, and he allowed her to decide how she wanted to proceed with the process. He stated that she expressed that she did not want to get the officer in trouble, and that she wanted his supervisor to be aware of the officer's inappropriate actions to curtail further violations. Sergeant Dovale said he informed Ms. Mann that, based on her request, he would initiate an informal investigation with the officer's supervisors. Sergeant Doval said that Ms. Mann never indicated that she wanted a formal investigation conducted.

In Ms. Mann's statement to the IRP, she contends that she told Sergeant Dovale that she wanted a "thorough investigation." Ms. Mann said that although Sergeant Dovale assured her that the matter would be referred to the proper supervisor, she was not told that the referral would eliminate a formal investigation being done by PCB Internal Affairs. She thought that the referral was inclusive of an investigation, therefore she did not object. She said no one said otherwise or clarified that there was a difference in the complaint handling process. The Panel found that due to the lack of an audio or video record, it is the word of Ms. Mann against that of Sergeant Dovale.

C. Other Findings

1. The Panel found that a District supervisor misinterpreted Ms. Mann's complaint. PCB sent its Contact Record (a record generated by PCB, which contains a narrative of the complaint) dated 4/9/02 to the involved officer's district command. In a 4/20/02 memorandum to Cutler Ridge District Major Leonard Burgess, Lieutenant Michael Cundle (of Cutler Ridge District) generated a response to the PCB Contact Record. The memorandum indicated "contrary to Ms. Mann's statements, there are no driveways located at this address, as it is a multi family living complex with street side parking only." This statement appears to question the credibility of Ms. Mann.

The Panel found that PCB Sergeant Angel Dovale made the reference to "residence's driveway" in the Contact Record and not Ms. Mann. According to Ms. Mann's hand written complaint, she stated, "while parked in front of my aunt's duplex, Officer D. Murillo #4886 pulled in behind me..." Ms. Mann's formal statement taken by IA on July 17, 2002, also indicated that she "pulled into the front of her aunt's residence, facing the house, and parked." Ms. Mann did not describe the area in which she parked as a driveway.

2. The PCB Internal Affairs complaint process was confusing to this complainant. Ms. Mann assumed that a "thorough investigation" and "turning over information to the district major [stated in her formal statement to IA]," are part of the formal complaint process. Ms. Mann expected the officer would receive discipline, insuring a record of the incident would be placed in the officer's file. This is a recurrent issue given prior IRP cases, involving complainants Bruneau, Wright, and Roebuck. (IRP #00.109, 99.462 and 01.098)

D. Recommendation

Ask the Miami-Dade Police Department to create and implement a "Notice of Complainant Rights" form to be executed by the complainant, to document the Internal Affairs (IA) investigator's explanation of options available to the complainant and the complainant's affirmation of understanding.

# Independent Review Panel

## Staff Recommendation to the Panel

February 27, 2003

**Complaint No.** A02.163

**Name of Complainant:** Sheila Mann

**Accused Party:** Miami-Dade Police Department (MDPD), Ofc. Danny Murillo

**Materials Reviewed:** Grievance Report Form, Correspondence, Staff Notes, and Departmental Response

**Complaint:** On Saturday, March 30, 2002, Sheila Mann was involved in a traffic stop that resulted in the issuance of a traffic citation for Failure to Signal. On Tuesday, April 9, 2002, Ms. Mann responded to MDPD Professional Compliance Bureau (PCB), Internal Affairs (IA) Section, and spoke with Sgt. Angel Dovale. She told Sgt. Dovale that she wanted a “thorough investigation.” She later learned that her complaint was handled through the informal complaint process, instead of the formal investigative process. On April 26, 2002, Ms. Mann filed a complaint with the Independent Review Panel (IRP). She made the following allegations to IRP that were subsequently referred to MDPD, with a request for a formal investigation.

- 1) Ofc. Murillo racially profiled her, in that, he had insufficient cause to initiate officer/citizen contact.
- 2) Ofc. Murillo failed to activate his siren or flashing lights, during the entire time, unbeknown to her, that he was tailing her; as well as when he pulled up behind her vehicle, already stopped at her aunt’s residence.
- 3) Ms. Mann also alleges that Sgt. Angel Dovale, the PCB Internal Affairs representative, failed to adequately explain the options available to citizens who file complaints.

### **Departmental Response – MDPD Investigative Report - I.A. 2002-218**

According to the Internal Affairs investigative report, Ms. Mann stated the following:

On Saturday, March 30, 2002, at approximately 10:30 p.m., while driving her 1997 BMW, Ms. Mann observed a marked police vehicle in front of her while traveling northbound on SW 117 Avenue at approximately 224 Street. Her aunt, Patricia Leonard, was a passenger. The police vehicle pulled off to the left side of the roadway and stopped. Ms. Mann passed the vehicle and continued northbound to the stop sign at SW 220 Street, signaled and turned left (westbound) onto SW 220 Street. Ms. Mann made a number of turns, and appropriate stops and signals at each turn, prior to arriving at her aunt’s residence at 12029 SW 215 Street.

Upon exiting the vehicle, her aunt informed her that a vehicle had pulled in behind her. Cutler Ridge District Ofc. Danny Murillo approached the driver's side window and stated to her that she just "blew" past him on SW 117 Avenue. Ms. Mann replied that she did not blow by him, but simply passed him as he pulled off the roadway. Ms. Mann then gave Ofc. Murillo her driver's license and vehicle registration. Ofc. Murillo then walked back to his police vehicle. Ms. Mann exited her vehicle, walked to Ofc. Murillo and asked him for his name, badge number, substation, supervisor's name and the shift that he worked. At some point during the exchange, Ofc. Murillo provided Ms. Mann with the requested information, as well as, a traffic citation for "Failure to Signal." Ms. Mann indicated that she did not commit any traffic violations and that she believed the sole reason Ofc. Murillo stopped her was because she was a black female, driving a BMW, in an area known for narcotics sales.

MDPD investigated the allegations that:

1. On Saturday, March 30, 2002, Ms. Mann was the victim of racial profiling by Ofc. Danny Murillo due to the type of vehicle she was driving, the area she was driving in, and the manner in which the traffic stop was conducted.
2. On Tuesday, April 9, 2002, Sgt. Angel Dovale of the Professional Compliance Bureau misled her into believing that a formal investigation into her complaint would be conducted.

The MDPD Disposition Panel made the following findings:

**Allegation #1 Not Sustained**

On March 30, 2002, Ofc. Danny Murillo did conduct a traffic stop on the complainant, Sheila Mann, reference a traffic violation. Ofc. Murillo who is assigned to the Cutler Ridge District where the stop took place, indicated that he was unable to determine the race or gender of the driver of the vehicle until he approached the vehicle after it had stopped. The complainant alleges that she was the victim of racial profiling due to the type of vehicle she was driving, the area she was driving in, and the manner in which the traffic stop was conducted.

Both Ms. Mann and Ofc. Murrillo disagree on the basis for the traffic stop. Based on the facts and evidence provided, Ofc. Murillo's action was lawful, proper, and justified. Due to conflicting statements and lack of an independent witness who could validate this assertion, this allegation is not sustained.

**Allegation #2 Not Sustained**

On April 9, 2002, Sgt. Dovale met with the complainant to interview her regarding a possible complaint. Sgt. Dovale asserts that during the conversation with Ms. Mann, he explained the complaint process to her and the different types of investigations done by the Internal Affairs Section. Sgt. Dovale stated that Ms. Mann agreed to have an informal investigation conducted regarding the complaint. The complainant denies this and alleges she wanted a formal investigation to ensure that a record of the incident was placed in Ofc. Murillo's personnel file. Due to conflicting statements and the lack of an independent witness, this allegation is not sustained.

The IA investigative report indicated, under “Additional Information,” that:

“Allegation #2, ...[as filed by Ms. Mann with] the IRP, indicated that Ofc. Murillo failed to use his emergency equipment (lights and siren) to initiate the traffic stop of the complainant. Based on the fact that the complainant voluntarily stopped her vehicle at a residence, use of emergency equipment was optional, and constitutes no procedural violation. Based on the foregoing, the allegation was not addressed.”

**Staff Remarks:**

After receiving the MDPD investigative report on December 18, 2002, a copy of the report was sent to the complainant, with the request that she advise Panel staff by January 15, 2003 whether or not it satisfied her complaint. After she did not respond, a telephone message was left for her on January 31, 2003. To date, February 10, 2003, Ms. Mann has not contacted staff.

**Staff Findings:**

1. The allegation that, Ofc. Murillo racially profiled Ms. Mann, in that, he had insufficient cause to initiate officer/citizen contact, to be **Not Sustained**.

Ms. Mann said that while passing the patrol vehicles, she did not observe the driver and didn't know whether he observed her. Ofc. Murillo indicated that he could not tell if the driver was male or female, Black or White. Ms. Mann contends that she made the appropriate stops and signal at each turn. Ofc. Murillo said he observed Ms. Mann speeding, failing to signal and/or stop. He said he issued her a traffic citation for “Failure to Signal,” but did not issue her any additional citations for the other traffic violations he observed. In Ms. Leonard's verbal statement to the Independent Review Panel (IRP), she said that she observed Sheila put on her signal light at each turn.

Panel staff found that although Ms. Leonard statement corroborates that of her niece, based on the facts provided, there is insufficient evidence to substantiate the allegation of racial profiling.

2. The allegation that, Ofc. Murillo failed to activate his siren or flashing lights, during the entire time that he was tailing Ms. Mann; as well as when he pulled up behind her vehicle, already stopped at her aunt's residence, was addressed by PCB Internal Affairs as follows:

“Based on the fact that the complainant voluntarily stopped her vehicle at a residence, use of emergency equipment was optional, and constitutes no procedural violation.” Additionally, Ofc. Murillo's chain of command, in its informal investigation, concluded that according to the MDPD manual, “use of emergency equipment was optional and at the discretion of the officer for a routine traffic stop.”

According to Ofc. Murillo, at the intersection of 216 Street and 120 Avenue, he activated his emergency lights (not his air horn or siren). He also said that his emergency lights were still on when he arrived at Ms. Mann's aunt's residence. According to Ms. Leonard, the police vehicle did not have its emergency lights on. Panel staff, based on conflicting testimony, found the allegation **Not Sustained**.

3. Regarding the allegation that Sgt. Dovale failed to adequately explain the complaint process options to her, Panel staff found that due to the lack of audio video record, it is the word of Ms. Mann against that of Sgt. Dovale, and is Not Sustained.

In Sgt. Angel Dovale's formal statement to IA, he stated that he informed Ms. Mann that the allegations could be addressed as a formal or informal investigation, and he allowed her to decide how she wanted to proceed with the process. He stated that she expressed that she did not want to get the officer in trouble, and that she wanted his supervisor to be aware of the officer's inappropriate actions to curtail further violations. Sgt. Dovale said he informed Ms. Mann that based on her request he would initiate an informal investigation with the officer's supervisors. Sgt. Doval said that Ms. Mann never indicated that she wanted a formal investigation conducted.

In Ms. Mann's statement to the IRP, she contends that she told Sgt. Dovale that she wanted a "thorough investigation." Ms. Mann said that although Sgt. Dovale assured her that the matter would be referred to the proper supervisor, she was not told that the referral would eliminate a formal investigation being done by PCB Internal Affairs. She thought that the referral was inclusive of an investigation, therefore she did not object. She said no one said otherwise or clarified that there was a difference in the complaint handling process.

4. Panel staff found that Ms. Mann's complaint was misinterpreted by a District supervisor. PCB sent its Contact Record (a record generated by PCB, which contains a narrative of the complaint) dated 4/9/02 to the involved officer's district command. In a 4/20/02 memorandum to Cutler Ridge District Major Leonard Burgess, Lt. Michael Cundle (of Cutler Ridge District) generated a response to the PCB Contact Record. The memorandum indicated "contrary to Ms. Mann's statements, there are no driveways located at this address, as it is a multi family living complex with street side parking only." This statement appears to question the credibility of Ms. Mann.

However, Panel staff found that PCB Sgt. Angel Dovale made the reference to "residence's driveway" in the Contact Record and not Ms. Mann. According to Ms. Mann's hand written complaint, she stated, "while parked in front of my aunt's duplex, Ofc. D. Murillo #4886 pulled in behind me..." Ms. Mann's formal statement taken by IA on July 17, 2002, also indicated that she pulled into the front of her aunt's residence, facing the house, and parked. Ms. Mann did not describe the area in which she parked as a driveway.

5. The PCB Internal Affairs complaint process was confusing to this complainant. Ms. Mann assumed that a "thorough investigation" and "turning over information to the district major [stated in her formal statement to IA]," are part of the formal complaint process. Ms. Mann expected the officer would receive discipline, insuring a record of the incident would be placed in the officer's file. This is a recurrent issue given prior IRP cases, involving complainants Bruneau, Wright, and Roebuck. (IRP #00.109, 99.462 and 01.098)

#### **Staff Recommendations:**

Ask MDPD to tape record the IA investigator explanation of options available to the complainant and the complainant's affirmation of understanding.